

REMARKS

In the Interview of July 9, 2007 between Examiner and the undersigned which both Examiner and Applicants have already summarized, it is believed that both parties appreciated that the combination of the Aycok and Moderegger references did not disclose:

"using the quality level of any attribute of assessed supplier to generate contract provision" (from Examiner's Interview Summary dated July 27, 2007 with underlining added).

Examiner indicated that a supplementary search would have to be conducted by the Patent Office to determine the novelty of the claimed combination with this additional element. It appears that the further search on this point found the Zinky Patent.

Accordingly, claims 1, 3, 5, 7-11, 13, 15, 17-20, 31, 33, 35, and 37-40 have now been finally rejected as unobvious and patentable under 35 USC 103(a) over Aycok (US5,765,138) in view of Moderegger (US2002/0049642), further in view of Zinky (US6,691,148).

Applicants take issue with this rejection, and submit that Zinky does not disclose using the quality level of any attribute of an already assessed supplier to generate a contract provision. Zinky does not assess or use the quality levels of supplier attributes. Zinky appears to first create contract provisions requiring specified levels for attributes of computer network services required for quality in network services.

It must be noted that Zinky's contract requirements are not based upon any assessment of any supplier. Zinky's attributes are not supplier attributes. Zinky's attributes

are network service attributes and the quality levels are levels required by a network service provider.

Reference is made to Fig. 4 of the present application (page 9 in specification) which describes the preferred embodiment of the present invention. The attributes of the particular supplier being assessed are, for example, quality of supplier testing potential, potential consistency of supplier scheduling, or the potential compatibility of supplier with Enterprise. The contract provisions of Fig. 5 are generated as a result of the supplier attribute qualities assessed in Fig. 4.

Zinky et al. does not create their contract provisions with particular supplier of network services in view. These contract provisions of Zinky would appear to be required in all contracts with all suppliers.


Zinky's contract requirements are based upon network service quality levels which service provider in Zinky wishes to maintain for a plurality of service functions. When the network services are in operation, Zinky then makes the quality assessment to determine if the service functions meet the contract requirements. If not, Zinky requires performance modifications to meet the contract requirements.

In view of the foregoing, Applicants submit that one skilled in art, in viewing the combination of Aycock and Moderegger, would not be led, by the teaching of Zinky, to use the quality level of any attribute of an already assessed supplier to generate a contract provision.

If Examiner still has further issues with this Application, Applicants Attorney is available on an immediate call on 512-567-4732 in addition to his office telephone set forth below.

Accordingly, Examiner is respectfully requested to reconsider and withdraw the final rejection, and to find the present Application in condition for allowance.

Respectfully submitted,

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